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Henry T. Brendzel  
P.O. Box 574  
Springfield, NJ 07081

In re Application of  
Beautnagel, et al.  
Application No. 10/090,065  
Filed: March 2, 2002  
Docket No.: Beautnagel 2001-0206  
For: EMPLOYING SPEECH MODELS IN  
CONCATENATIVE SPEECH SYNTHESIS

OFFICE OF PETITIONS

DECISION REFUSING STATUS  
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed May 24, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed March 2, 2002 without an executed oath or declaration and naming Charles Beautnagel, David A. Kapilow, Joannis G. Stylianou, and Ann K. Syrdal as joint inventors. Accordingly, on April 1, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition lacks requirements (1), (2) and (4) stated above.

As to item (1), the petition lacks sufficient evidence that the non-signing inventor cannot be reached, was ever presented with a copy of the application papers (specification, claims and drawings), or, having been presented with the application papers, refused to sign the oath or declaration.

The declaration of Henry Brendzel indicates that attempt was made to reach the inventor, but that the inventor did not respond to email and the inventor's telephone number was unavailable. Declarant further states that a declaration and assignment were emailed to the inventor, but that no response was received.

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Where inability to locate a non-signing inventor is alleged, diligent effort to locate the non-signing inventor must be undertaken. Petitioner is required to undertake additional effort to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, claims, drawings, and oath or declaration). Details and supporting evidence regarding attempts to locate the non-signing inventor should be submitted in the form of a declaration or affidavit by one having first hand knowledge of the information contained therein. Petitioner may wish to consult telephone directories, the internet, national registries, etc., in effort to locate the non-signing inventor.

As to item (2), an acceptable oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. The declaration presented with the instant petition is not acceptable as it fails to set forth the particulars of the non-signing inventor, i.e., address, citizenship, residence. Petitioner is advised that any renewed petition should include an executed oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64.

As to item (4), petitioner is required to provide a last known address for the non-signing inventor.

The required petition fee of \$130.00 has been charged to deposit account No. 50-0732 as authorized in the instant petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:           Commissioner for Patents  
                    Box DAC  
                    Washington, DC 20231

By FAX:           (703) 308-6916  
                    Attn: Office of Petitions

By hand:           Crystal Plaza Four, Suite 3C23  
                    2201 S. Clark Place  
                    Arlington, VA

Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.



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for Patent Examination Policy